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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

MAILED

Application Number: 10/699,485

Filing Date: October 30, 2003

Appellant(s): VERNON ET AL.

AUG 13 2007

GROUP 3600

Vernon
For Appellant

EXAMINER'S ANSWER

The previous examiners answer of 6/27/2007 is Vacated and replaced with this
examiners answer, which corrects informalities in section (1).

This is in response to the appeal brief filed 2/07/2007 appealing from the Office action
mailed 1/12/2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

This is in response to the appeal brief filed 2/07/2007 appealing from the Office action mailed 1/12/2006.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

A substantially correct copy of appealed claims 4,6, 7-9, 13-19 appears on page 15 of the Appendix to the appellant's brief. The minor errors are as follows:

In claim 4: "contain" should be changed to "containing".

(8) Evidence Relied Upon

5, 395, 148	JAMESON	3-1995
1,927,873	LANTZ	9-1933

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 4, 6-9, 13-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jameson in view of Lantz.

Referring to claims 4,6-7

Jameson discloses a "Magnetic Rake" as claimed. See Figs. 1-6 and respective portions of the specification. Jameson further discloses a magnetic rake (10) comprising one or more magnets (60); a hollow, unitarily formed, rake body (20) containing the magnets; and a handle (50) attached to the rake body. Jameson does not disclose that the rake body is toothed. Lantz discloses a "Holding Rake" as claimed. See Figs. 1-6 and respective portions of the specification. Lantz further discloses a toothed rake body (See Fig. 1-2). Furthermore, Lantz discloses that the toothed rake body (1) is made of a single piece of aluminum casting (See Pg. 1 l. 3-12). Jameson further discloses that his present invention moves over the **ground** or floor surfaces to pick up ferro-magnetic materials and that the purpose of the invention is to maintain contact with the surface it is **raking** and sweeping (See Col 1. l. 25-32). It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the apparatus of Jameson to include an aluminum toothed body as taught by Lantz so that the teeth could agitate and pull up particles from the ground. It should further be noted that it is generally known in the art to provide teeth, tines, or prongs on sheaths or cuffs and that it would have only required routine skill in the art to modify the cuff of Jameson to include teeth, tines, or prongs.

Referring to claim 8. Jameson discloses a handle (50) that is connected to the rake body (10) (See Figs. 1,3-4). Jameson does not disclose that the handle is detachably connected to the rake body using a mechanical system. It would have been

obvious to a person of ordinary skill in the art at the time of the invention to modify the apparatus of Jameson so that the handle could be attached through a mechanical system so that it could be stored and packaged easily.

Referring to claim 9. Jameson discloses a handle (50) that is permanently attached to the rake body (See Figs. 1,3-4).

Referring to claim 13-14,16-19. Jameson discloses a method of collecting Ferro-magnetic items from a surface area, the method comprising the acts of operating over a surface area a hollow, unitarily formed rake body (20), that contains at least one magnet (60) inside; and allowing Ferro-magnetic items from the surface area to collect on the rake body (See Col. 1 l. 25-28 & Figs. 1,3-4). Jameson does not disclose a toothed rake body. Lantz discloses the invention as described above in detail. Lantz further discloses a toothed rake body (1). It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the apparatus of Jameson to include an aluminum toothed body as taught by Lantz so that the teeth could agitate and pull up particles from the ground. It should be noted and understood that Lantz teaches a toothed rake body that comprises triangular teeth (See Fig. 2) as well as non-triangular teeth (See Fig. 1).

Referring to claim 15. Jameson does not disclose inverting the rake body so that a toothed portion of the hollow unitarily formed toothed rake body faces away from the surface area. However, it would have been obvious to a person of ordinary skill in the art that the method of inverting the rake body so that the teeth faced away from the

surface area could be performed so that you did not agitate the ground but were still able to magnetically attract Ferro-magnetic particles.

(10) Response to Argument

In response to Applicant's argument that there, is not suggestion to combine the references, the Examiner recognizes that references cannot be arbitrarily combined and that there must be some reason why one skilled in the art would be motivated to make the proposed combination of the primary and secondary references. However, there is not requirement that the motivation to make the modification be expressly articulated. The test for combining references is what the combination of disclosures taken as a whole would suggest to one of ordinary skill in the art, references therefore are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures. In this case, Jameson discloses and refers to his invention as a "Magnetic Rake", he further discloses that his present invention moves over the **ground** or floor surfaces to pick up ferro-magnetic materials and that the purpose of the invention is to maintain contact with the surface it is **raking** and sweeping (See Col 1. l. 25-32). Therefor, it would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the apparatus of Jameson to include an aluminum toothed body as taught by Lantz so that the teeth could agitate and pull up particles from the ground as this would improved on the ability of Jameson's rake to agitate and pull up articles as it is raking a ground surface. It should further be noted that is generally known in the art to provide teeth, tines, or prongs on sheaths or cuffs and that

it would have only required routine skill in the art to modify the cuff of Jameson to include teeth, tines, or prongs to which the invention would perform in its intended fashion.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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